

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 KWAME GAINES,

4 Plaintiff

Case No. 2:23-cv-01970-APG-DJA

5 v.

6 GUERRA UNIT 9 C/O NIGHT SHIFT, et
7 al.,

8 Defendants.

9
ORDER

10 On November 27, 2023, pro se plaintiff Kwame Gaines, an inmate being detained
11 at the Clark County Detention Center, submitted a complaint under 42 U.S.C. § 1983.
12 (ECF No. 1-1). Upon review, the Court notes that Plaintiff did not sign the complaint.

13 Plaintiff included a financial certificate with the complaint, but he did not file an
14 application to proceed *in forma pauperis*. A request to proceed *in forma pauperis* must
15 include: **an application on this Court's approved form, a financial certificate, and an**
16 **inmate trust fund account statement for the previous six-month period with the**
17 **application.** For the reasons stated below, the Court grants Plaintiff leave to file a signed
18 amended complaint and either pay the required filing fee or file a new fully complete
19 application to proceed *in forma pauperis*.

20 **I. DISCUSSION**

21 **A. Plaintiff must file a signed amended complaint.**

22 “A civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3.
23 A plaintiff who is not represented by counsel must personally sign his or her complaint.
24 *Id.* at 11(a). The Court cannot consider the complaint that Plaintiff submitted because
25 Plaintiff did not sign it. The Court grants Plaintiff a **one-time extension** to file a signed
26 amended complaint with the Court.

27 Filing a mere signature page will not be sufficient. Plaintiff is advised that an
28 amended complaint replaces the original complaint, so the amended complaint must be

1 complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d
2 1542, 1546 (9th Cir. 1989). This means the amended complaint must contain all claims,
3 defendants, and factual allegations that Plaintiff wishes to pursue in this action. Plaintiff
4 should use this Court's approved prisoner civil rights form, and it must be titled "First
5 Amended Complaint."

6 **B. Plaintiff must properly apply for pauper status or pay the full filing fee.**

7 The United States District Court for the District of Nevada must collect filing fees
8 from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights
9 action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. See *id.*
10 at § 1914(b). "Any person who is unable to prepay the fees in a civil case may apply to
11 the court for leave to proceed *in forma pauperis*." Nev. Loc. R. Prac. LSR 1-1. For an
12 inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the
13 following documents to the Court: (1) a completed **Application to Proceed *in Forma***
14 ***Pauperis for Inmate***, which is pages 1–3 of the Court's approved form, that is properly
15 signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is
16 page 4 of the Court's approved form, that is properly signed by both the inmate and a
17 prison or jail official; and (3) a copy of the **inmate's prison or jail trust fund account**
18 **statement for the previous six-month period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev.
19 Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her
20 obligation to pay the filing fee, it just means that the inmate can pay the fee in installments.
21 See 28 U.S.C. § 1915(b). The Court denies the application to proceed *in forma pauperis*
22 without prejudice because it is incomplete, and the Court grants Plaintiff an extension of
23 time to file a new fully complete application to proceed *in forma pauperis* or pay the
24 required filing fee.

25 **II. CONCLUSION**

26 It is therefore ordered that Plaintiff has **until February 9, 2024**, to either pay the
27 full \$402 filing fee or file a new fully complete application to proceed *in forma pauperis*
28 with all three required documents: (1) a completed application with the inmate's two

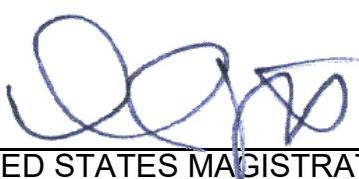
1 signatures on page 3, (2) a completed financial certificate that is signed both by the
2 inmate and the prison or jail official, and (3) a copy of the inmate's trust fund account
3 statement for the previous six-month period.

4 It is further ordered that Plaintiff has **until February 9, 2024**, to file a signed
5 amended complaint. If Plaintiff chooses to file an amended complaint, Plaintiff should use
6 this Court's approved prisoner civil rights form, and it must be titled "First Amended
7 Complaint."

8 It is further ordered that this action will be subject to dismissal without prejudice if
9 Plaintiff fails to timely comply with this order. A dismissal without prejudice allows Plaintiff
10 to refile the case with the Court, under a new case number, when Plaintiff can file a signed
11 complaint and either file a complete application to proceed *in forma pauperis* or pay the
12 required filing fee.

13 The Clerk of the Court is directed to send Plaintiff Kwame Gaines the approved
14 form for filing a § 1983 complaint and instructions for the same, the approved form
15 application to proceed *in forma pauperis* for an inmate and instructions for the same, and
16 a copy of the original complaint (ECF No. 1-1); and to retain the complaint but not file it
17 at this time.

18 DATED this 12th day of December 2023.
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22 UNITED STATES MAGISTRATE JUDGE
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